

## **Dismissal for Failure to File All Required Information 11 U.S.C. § 521(i)**

*This section mandates that a chapter 7 or 13 case “shall be automatically dismissed effective on the 46<sup>th</sup> day after the date of the filing of the petition” if the debtor fails to file “all information required by 11 U.S.C. § 521(a)(1)” within 45 days of filing. This section also permits any party in interest to request the court to enter an order dismissing the case, with the requirement that the order be entered not later than five days after the request.*

Set forth below are several options for courts to consider:

If a case is filed without the official forms, schedules and statements, courts have developed the following procedures:

- **Deficiency Notice**  
The court imposes a deadline of 45 days or less from the date the petition is filed (11 U.S.C. § 521).<sup>1</sup> If the information is not timely filed, the clerk may generate an order of dismissal to be signed by the judge.
- **No Action Unless Requested by Trustee/Creditor**  
Under this approach, the clerk’s office does not have responsibility for checking to ensure compliance with § 521(a).
- **Court Adopts Local Rule/Standing Order Regarding Consequences of Failure to File**  
The court could adopt a standing order or local rule stating, e.g., that if an individual debtor in a case under chapter 7 or chapter 13 fails to file all information required under 11 U.S.C. § 521 (or § 1321) and no motion for an extension of time has been filed, the Trustee or United States Trustee will file a notice stating that debtor has failed to comply with the requirements of § 521 (or § 1321) and the case will be dismissed without further notice or hearing.
- **Court Issues an Order to Show Cause (OSC) Why the Case Should not be Dismissed for Failure to File Official Forms, Schedules, and Statements**  
Interim Rule 1007 (c) requires that schedules, statements, and other documents shall be filed with the petition or within 15 days thereafter. The court could issue an OSC why the case should not be dismissed for failure to submit required schedules, statements, and other official forms.

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<sup>1</sup> The court may also choose to set the hearing on the deficiency and include the hearing date in the deficiency notice.

If a party requests an order of dismissal under 11 U.S.C. § 521(i)(2):

- If not already entered, and if the debtor has not filed a motion to extend the time to file the required information, the court shall enter an order of dismissal within 5 days of the request.
- The Judge signs an order dismissing the case, or, in the alternative, the dismissal is entered on the docket by the clerk.

Under 11 U.S.C. § 521(i)(4), the Trustee may request that the court decline to dismiss the case if, after notice and hearing, the court finds that the debtor attempted in good faith to file all the required information, and the best interests of the creditors would be served by administration of the case. The motion by the Trustee must be filed before any of the applicable time periods in § 521(i)(1),(2), or (3) have expired.

*Note: A court may exercise its discretion under 11 U.S.C. §521 to determine that payment advices and other documents noted under 11 U.S.C. § 521(a)(1)(B) are not required to be filed.*